

H B

5 1 3

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	2/5/86	1:30 pm
" "	2/27/86	1:30 pm
" "	2/28/86	1:30 pm

Office of Management and Budget
Division of Strategic Planning

February 3, 1986

HOUSE BILL (HB) 513

An act relating to the constitutional appropriation limitation and budget reserve fund; and providing for an effective date.

SECTIONAL ANALYSIS

Section 1

This section amends AS 37.05 (Fiscal Procedures Act) by adding a Section 156 (Budget Reserve Fund; Appropriation Limit).

Subsection (a) establishes the Budget Reserve Fund (BRF) as a separate fund within the State Treasury, and stipulates that the money in the BRF is dedicated by the provision of Article IX, Section 17 of the Alaska Constitution.

Section 17 is added to Article IX of the Constitution by the provisions of HJR 62, Section 3. That section of HJR 62 effectively stipulates that revenue receipts in excess of the new appropriation limit established in HJR 62 (which applies only to unrestricted general funds) must be deposited in the BRF.

Subsection (b) effectively stipulates that, for purposes of determining the new appropriation limit amount established in HJR 62, appropriations are considered to be made in the calendar year in which they are enacted.

The calendar-year basis is specified in this subsection because the appropriation limit established in HJR 62 is determined for each fiscal year according to the total amount of appropriations enacted during the calendar year which precedes that fiscal year. That approach is used in HJR 62 in order to assure that legislators know at the start of legislative sessions precisely how much money they can appropriate for the upcoming fiscal year's budget.

Lines 18-21 of Subsection (b) effectively stipulate that any money which comes to the General Fund from the BRF because deposits have caused the BRF balance to exceed the BRF's

annually established capacity (maximum size), shall, if appropriated, be included in the determination of the following year's appropriation limit.

Lines 21-25 of Subsection (b) effectively stipulate that the money to which the HJR 62 appropriation limit applies shall be considered to include any carry-forward or deficit from the preceding fiscal year.

Subsection (c) effectively stipulates that reappropriations shall not be considered as new appropriations in the year in which they are reappropriated, thus exempting reappropriations from the HJR 62 appropriation limit.

Lines 26-29 further stipulate that only the remaining balance in reappropriation accounts may be considered to be reappropriations. (For example, if the amount of \$1 million was appropriated for a fiscal year 1988 project, but only \$800 thousand remained in the account as of January 1990, only \$800 thousand of a \$1 million reappropriation made during the 1990 session would be considered as the reappropriation. The remaining \$200 thousand of the \$1 million reappropriation would be considered a new appropriation, and thus would be included under the appropriation ceiling governing that session.)

The last four lines of Subsection (c) establish a methodology for distinguishing reappropriations from new appropriations in appropriation bills. According to this methodology, a reappropriation item in an appropriation bill will be considered to be a reappropriation only if the bill includes, within a single section, an explicit coupling of a repeal citation and a reappropriation amount. All reappropriation items lacking such an explicit coupling will be considered to be new appropriations, and thus will count under the appropriation limit operative at the time.

Subsection d) effectively stipulates that the Governor shall determine whether the amount of unrestricted general fund revenue received during a fiscal year is less than 95 percent of the total unrestricted general fund appropriations enacted during the calendar year which preceded that fiscal year; and, that the Governor shall make that determination during the fourth quarter of the fiscal year. If the Governor determines that such a shortfall has occurred, the BRF shall transfer money to the General Fund for appropriations. The amount of money so transferred shall be the lesser of: (a) enough to raise appropriations to the 95 percent level; or, (b) an amount equal to 25 percent of the existing BRF balance.

Subsection (e) effectively stipulates that, if deposits to the BRF cause the BRF's annually established capacity (maximum size) to be exceeded, 75 percent of the excess amount must be deposited in the Permanent Fund.

Subsection (f) effectively stipulates that the Governor's authority to use BRF money to meet State emergencies, as authorized in HJR 62, shall apply to emergencies as defined in AS 26.23.230(1), and to emergencies involving a serious reduction in revenue from non-state (e.g., federal) sources.

Subsection (g) effectively represents an attempt to formally define "unrestricted general fund revenues", for purposes of defining the scope of applicability of the new appropriation limit established in HJR 62. Though its meaning is widely understood in budgetary parlance, the phrase "unrestricted general fund revenues" has not previously been defined.

Section 2

Because the existing appropriation limit will be reconsidered on the 1986 general election ballot, it is possible that an individual might vote to retain the existing limit, while simultaneously voting affirmatively on the BRF appropriation limit (pursuant to the provisions of HJR 62). To avoid this possibility, Section 2 of House Bill 513 instructs the Lieutenant Governor to include an explanation of the situation on the ballot. Under the provisions of Section 2, the Lieutenant Governor shall make it clear on the ballot that an affirmative vote on the BRF appropriation limit (HJR 62) will supercede an affirmative vote on the reconsideration of the 1982 appropriation limit.

Section 3

This section repeals the State's current "Rainy Day Fund" and transfers its balance to the BRF.

Section 4

This section effectively stipulates that Section 1 and Section 3 of HB 513 will take effect only when any voter approval of the BRF and its accompanying appropriation limit become effective.

Section 5

This section stipulates that the provisions of Section 2 of HB 513, requiring the Lieutenant Governor's ballot explanation, will become effective immediately if HB 513 is enacted.

**HOUSE
COMMITTEE REPORT**

Date referred: 1/24/86

FURTHER REFERRALS: FINANCE

DATE: 2/28/86

The JUDICIARY Committee has considered HB 513

"An Act relating to the constitutional appropriation limitation and budget reserve fund; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 513 (JUD) same title
- new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

NO REC
NO REC

do not pass

Chairman

Work Draft

Cook
2/28/86

Original sponsor: Rules/governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 513 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the constitutional appropriation
7 limitation and budget reserve fund; and providing for
8 an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 37.05 is amended by adding a new section to read:

11 Sec. 37.05.156. BUDGET RESERVE FUND; APPROPRIATION LIMIT. (a)

12 There is established as a separate fund in the state treasury the
13 budget reserve fund. The budget reserve fund consists of money ded-
14 icated to that fund by art IX, sec. 17, Constitution of the State of
15 Alaska.

16 (b) For the purposes of determining the appropriation limitation
17 amount under art. IX, sec. 16, Constitution of the State of Alaska,
18 (1) an appropriation is considered to be made in the calendar year in
19 which it is enacted, and (2) "appropriation" includes money received
20 by the state, described in art. IX, sec. 17(a), Constitution of the
21 State of Alaska, that exceeds the maximum balance of the fund and is
22 subsequently deposited in the general fund and appropriated. For the
23 purposes of art. IX, sec. 17, Constitution of the State of Alaska, the
24 amount of money received by the state includes any surplus carried
25 forward from the preceding fiscal year, or is reduced by any deficit
26 from that preceding fiscal year.

27 (c) A reappropriation of no more than the remaining balance of
28 the amount appropriated in a prior year is considered an appropriation
29 attributable to the calendar year in which the appropriation was first

1 enacted. Only if, within a single section of an appropriation bill,
2 there is an explicit repeal of an appropriation coupled with a new
3 appropriation is there a reappropriation for the purposes of this
4 subsection.

5 (d) If the money received by the state from state sources in a
6 fiscal year is less than 95 percent of the amount appropriated from
7 state sources during the preceding calendar year, amounts may be
8 transferred from the budget reserve fund to the general fund, up to a
9 limit of either 25 percent of the budget reserve fund balance, or the
10 difference between money received from state sources in that fiscal
11 year and 95 percent of appropriations during the preceding calendar
12 year, whichever is less. Determination of the need for budget reserve
13 fund expenditures for a fiscal year shall be made during the final
14 quarter of that fiscal year.

15 (e) As authorized by art. IX, sec. 17(b), Constitution of the
16 State of Alaska, 75 percent of the money received by the state, de-
17 scribed in art. IX, sec. 17(a), Constitution of the State of Alaska,
18 that exceeds the maximum balance of the fund, shall be deposited in
19 the Alaska permanent fund.

20 (f) The Department of Revenue shall manage and invest assets of
21 the budget reserve fund in the manner set out for the management and
22 investment of assets of the Alaska Permanent Fund Corporation under
23 AS 37.13.120. The department has all of the duties and authority
24 given the corporation and the board under AS 37.13.120.

25 (g) In art. IX, sec. 17, Constitution of the State of Alaska,
26 "emergency" means the events set out in AS 26.23.230(1) or a reduction
27 of the revenue from nonstate sources that seriously impairs the
28 ability of the state to perform essential functions.

29 (h) In this section and art. IX, secs. 16 and 17, Constitution

1 of the State of Alaska, "state source" means

2 (1) the undistributed income account in the permanent fund;
3 and

4 (2) all sources of money in the state general fund except

5 (A) federal sources;

6 (B) bond proceeds;

7 (C) sources from which money is received in trust for
8 a specific purpose; and

9 (D) the dividend fund established under AS 43.23.045.

10 * Sec. 2. The lieutenant governor shall include on the ballot for the
11 1986 general election an explanation that an affirmative vote on the con-
12 stitutional amendment providing for the budget reserve fund and revising
13 the appropriation limit will supersede an affirmative vote on the reconsid-
14 eration, under art. XV, sec. 27, Constitution of the State of Alaska, of
15 the 1982 amendment establishing the appropriation limit.

16 * Sec. 3. AS 37.05.159, reserve for emergency operating expenses ac-
17 count (the "rainy day fund"), is repealed, and the balance in that account
18 is transferred to the budget reserve fund.

19 * Sec. 4. Sections 1 and 3 of this Act take effect on the effective
20 date of a constitutional amendment establishing the budget reserve fund and
21 revising the appropriation limit.

22 * Sec. 5. Section 2 of this Act takes effect immediately in accordance
23 with AS 01.10.070(c).
24
25
26
27
28
29

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CS HB513/HJR 62
 Title : Appropriation Limit of
Budget Reserve Fund

 Sponsor : Governor
 Requestor : House Judiciary
 Date of Request : 2/27/86

FISCAL DETAIL

Agency Affected : ALL
 BRU : N/A

 Components : N/A

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Neither bill will require additional state expenditures.
 See attached summary for an explanation of the appropriation limit
 and the budget reserve fund.

Prepared by : Gordon Harrison *Gordon S. Harrison* Phone : 465-3568
 Division : Division of Strategic Planning Date : 2/27/86

Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Office of Management and Budget
Division of Strategic Planning
January 31, 1986

SUMMARY--BUDGET RESERVE FUND

The basic principles of Governor Sheffield's proposed Budget Reserve Fund (BRF) may be summarized as follows:

- o The BRF replaces the Rainy Day Fund.
- o Potential sources of capitalization for the BRF include the balance of the Rainy Day Fund, windfall revenue, retained BRF earnings, and future revenue surpluses.
- o The BRF appropriation limit replaces the existing appropriation limit.
- o The BRF appropriation limit applies only to unrestricted general fund revenues, and defines "Base Year" as the calendar year preceding the start of a given fiscal year.
- o Annual appropriations are limited to 115 percent of total appropriations enacted during the Base Year.
- o If revenue receipts in a fiscal year fall below 95 percent of total appropriations enacted during the Base Year, the BRF pays out the lesser of two amounts for general fund appropriations: (a) enough to raise appropriations to the 95 percent level; or, (b) 25 percent of the BRF balance.
- o If revenue receipts in a fiscal year surpass 115 percent of total appropriations enacted during the Base Year, the surplus above the 115 percent level is transferred into the BRF.
- o If a transfer or any other event causes the BRF balance to exceed the BRF's capacity (annually set equal to total appropriations enacted during the Base Year), the excess is divided between the Permanent Fund (75 percent) and the General Fund (25 percent). The latter 25 percent may be appropriated without regard to the 115 percent appropriation limit, but is included in calculations for the next fiscal year's Base Year.
- o The balance of the BRF is accessible in cases of emergencies, as defined by law.

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HB 513

Page 2, after line 18, insert a new subsection to read:

"(f) The Department of Revenue shall manage and invest assets of the budget reserve fund in the manner set out for the management and investment of assets of the Alaska Permanent Fund Corporation under AS 37.13.120. The department has all of the duties and authority given the corporation and the board under AS 37.13.120."

Reletter the following subsections accordingly.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

March 4, 1986

Honorable Mike Miller
Chairman, House Judiciary Committee
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Re: CSHB 513(Jud) and CSHJR
62(Jud) -- budget reserve
fund and appropriation
limit)

Dear Mike:

I have just skimmed your committee's substitutes, offered yesterday, for HB 513 and HJR 62. A couple of points jumped out at me, and I am not sure whether they reflect oversights or intentional decisions. Here they are:

1. At the February 5, 1986 House Judiciary Committee hearing, one of the committee members expressed concern about the definition of "emergency" that appears in proposed AS 37.05.156(g) ((f) in the original version) of CSHB 513(Jud). In my February 10, 1986 letter to you, I addressed that point on page 3, concluding that there was no legal problem, but offering a clarifying amendment. The substitute bill does not include the clarification. It would be at page 2, line 26, of the substitute; insert "the definition of 'disaster' in" in front of the citation. Thus that line would read "'emergency' means the events set out in the definition of 'disaster' in AS 26.23.230(1) or a reduction." Your committee might have decided that this clarification is not necessary.

2. In sec. 4, your substitute version of the resolution adopts our suggestion to use an effective-date clause to deal with the problem created by the current art. XV, sec. 27's requirement that the voters vote again on the 1982 spending limit amendment. However, your version of the resolution does not use the language suggested in my February 10, 1986 letter. Two aspects concern me:

A. The language in your version mentions a majority of voters approving the 1982 amendment, and then tells when the 1986 amendment takes effect. It seems to me to be preferable to express what is only implied in your language. I.e., there should be some reference to a majority of the voters having approved the 1986 amendment. In other words, on page 2, line 28, after the comma, the following words should be inserted: "and a majority of those voting on the 1986 amendment approves the 1986 amendment," or words to that effect. The same comments apply to the second sentence of that section, at page 3, line 2.

B. The language at lines 28 and 29 of page 2 of your version identify the 1986 amendment only as the one "repealing and readopting section 16 of article IX." What about the amendment to art. IX, sec. 7 and the new art. IX, sec. 17? It could be that the drafter intended those other two changes to take effect in the standard art. XIII, sec. 1, 30 days. However, the three changes are so integrally related that they should all take effect on the same day. The version in the February 10 letter provides for that.

Your version corrects an oversight in mine, in that we should be referring to a majority of the voters. However, other than that, and modesty aside, the February 10 version appears preferable for the following reasons:

i. It leads off with a reference to voter approval of this 1986 amendment, and then goes on to deal with the effective date.

ii. It clearly identifies what we mean by "this amendment," specifying all of the changes. Of course, since you have deleted the provision on a 1986 appropriation to the permanent fund, you would not want to refer to art. XV, sec. 29 here). Although this requires more words, it is clearer and more accurate.

iii. It is couched in the terms of art. XV, sec. 27, and refers to that provision in brief explanation of why we are in this muddle in the first place.

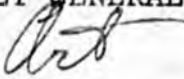
Honorable Mike Miller, Chairman
House Judiciary Committee

March 4, 1986
Page 3

iv. It is set out in a format that makes the result obvious and easier to understand, similar to the format change your CS made in our version of the definition of "state source" in the bill.

Very truly yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By: 
Arthur H. Peterson
Assistant Attorney General

AHP:md

cc: Tamara Cook, Director
Legal Services Division
Legislative Affairs Agency

Milton B. Barker
Deputy Commissioner, Treasury
Dept. of Revenue

Gordon Harrison, Associate Director
Div. of Strategic Planning
OME

Jay Hogan, Associate Director
Div. of Budget Review
OMB

Jim Ayers
Director of Legislative Relations
Governor's Office

James L. Baldwin
Assistant Attorney General
Juneau

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 27, 1986

SUBJECT: Budget Reserve Fund (CSHB 513(Jud))

TO: Representative M. Mike Miller, Chair
House Judiciary Committee

FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

Here is the committee substitute that you requested dealing with the budget reserve fund. I know that the bill has been passed from your committee, nevertheless I wish to alert you to some major legal problems posed by this legislation.

Under section 2, the lieutenant governor is required to include on the ballot for the 1986 general election an explanation that an affirmative vote on the constitutional amendment providing for the budget reserve fund and revising the appropriation limit will supersede an affirmative vote on the reconsideration of the existing constitutional appropriation limit provision. It is far from clear that providing this explanation will make it so. More thought needs to be given to the problem created by presenting two conflicting appropriation limits to the voters. In addition, should HB 513 fail to pass and the resolution calling for the budget reserve fund succeed in passing, even this direction to the lieutenant governor will be lost. It would seem better to include the provision in the resolution proposing the constitutional amendment rather than in HB 513.

Section 3 of the bill proposes to transfer money from the "rainy day fund" to the newly created budget reserve fund. This is an appropriation that violates Article II, section 13, since it is not contained in an appropriation bill. It should be deleted from HB 513 and placed in an appropriation bill.

TBC:mkr
m3/096
Enclosure

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

February 10, 1986

Honorable Mike Miller
Chairman, House Judiciary Committee
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Re: HB 513 and HJR 62 (budget
reserve fund and appropria-
tion limit)

Dear Mike:

As you requested at the House Judiciary Committee hearing on February 5, 1986, here are some amendments to these two measures, dealing with points raised by various committee members:

1. In the resolution, on page 2, line 14, delete the words "the governor determines that." Thus, the beginning of that subsection (b) will read "If the money received by the state from state sources in a fiscal year is less than the amount...." It is not necessary to add anything to the bill to specify whose responsibility it is to make the determination that the money received is less, because proposed AS 37.05.156(d) in the bill already refers to the governor, making that responsibility clear. This should resolve the question of the judicial reviewability of that determination, as raised by Representative Clocksin.

2. In the resolution, do something like the following:

Page 2, line 25, delete "a" and change "section" to read "sections."

Page 2, after line 29, insert:

SECTION 30. EFFECTIVE DATE. If approved by the voters, this amendment to the Constitution of the State of Alaska, consisting of an amendment to art. IX, sec. 7; the repeal and re-adoption of art. IX, sec. 16; and

the addition of art. IX, sec. 17, and art. XV, sec. 29, takes effect as follows:

(1) if, in voting again on the 1982 version of art. IX, sec. 16, as required by art. XV, sec. 27, the voters reject that version of art. IX, sec. 16, this amendment takes effect thirty days after the certification of the 1986 general election returns by the lieutenant governor;

(2) if, in voting again on the 1982 version of art. IX, sec. 16, as required by art. XV, sec. 27, the voters do not reject that version of art. IX, sec. 16, this amendment takes effect forty days after the certification of the 1986 general election returns by the lieutenant governor.

Nothing regarding this point need be done in the bill. The bill's sec. 2, regarding the lieutenant governor's explanation of the new provision's supersession of the old one, is still appropriate.

This proposal, relying on art. XIII, sec. 1's provision on the effective date of an amendment to the constitution, should resolve the question raised by Representative Gruenberg concerning the point that sec. 2 of the bill addresses. After trying some draft wording, we did not take the approach discussed at the committee hearing, to the effect that a voter's affirmative vote on both questions would nullify that voter's vote on both questions. The sensitivity of disenfranchisement issues and the need to determine voter intent deterred us. In fact, rather than two "yes" votes being totally illogical, a voter who wanted to make sure that the state did not end up with no appropriation limit may very well vote "yes" on both questions. He or she might not want to risk voting "no" on either of them. The effective-date approach offered here solves the problem of the re-vote on the old appropriation limit, while avoiding other problems. Although wordy, it is conceptually simple.

The number "forty" in paragraph (2) of the proposed sec. 30 has no special significance other than that it is a convenient number greater than thirty. Although the re-affirmation of the old appropriation limit is not exactly an amendment, which would take effect 30 days after certification of the election results, its status would be clear by that date. Giving the new spending limit a slightly later effec-

...ive date avoids any issue concerning certification and effective dates. Referring to the voters "rejecting," rather than "approving," the 1982 version tracks art. XV, sec. 27.

3. A question was raised concerning the definition of "emergency" that appears in proposed AS 37.05.156(f). That definition covers two kinds of situations -- those that could be called "natural disasters" and those that relate to state income. In dealing with the former category, our definition refers to AS 26.23.230(1), a paragraph that contains the definition of "disaster" for the purposes of the Alaska Disaster Act. At the committee hearing, someone asked about the relationship between our bill and the federal Disaster Relief Act of 1974. However, the definition that we have incorporated by reference does not include a reference to that federal Act. Only AS 26.23.230(3), (4), and (6) refer to the federal Act. Our reference to paragraph (1) thus picks up only the following:

...the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or nonmilitary man-made cause including, but not limited to, fire, flood, earthquake, landslide, mudslide, avalanche, wind-driven water, weather condition, tsunami, oil spill or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air contamination, blight, infestation, explosion, riot, equipment failure, or shortage of food, water, fuel, or clothing.

Consequently, I do not think that we have a problem and the federal Act is not relevant. However, perhaps this would be made clearer by inserting on the bill's page 2, line 20, after the words "set out in," the words "the definition of 'disaster' in." Thus, the first part of the definition of "emergency" would read: "...the events set out in the definition of 'disaster' in AS 26.23.230(1) or a reduction of the revenue from nonstate sources..." Perhaps I did not understand the committee's concern about this point.

The suggestions in this letter are in addition to the one in my February 3 letter to you regarding the definition of "state source."

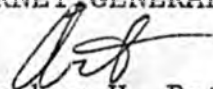
Honorable Mike Miller
Chairman, House Judiciary Committee

February 10, 1986
Page 4

Thank you for this opportunity to work on the bill and resolution with you and your committee.

Very truly yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By: 
Arthur H. Peterson
Assistant Attorney General

AHP:md

cc: Milton B. Barker
Deputy Commissioner, Treasury
Dept. of Revenue

Gordon Harrison, Associate Director
Div. of Strategic Planning
OMB

Jay Hogan, Associate Director
Div. of Budget Review
OMB

Jim Ayers
Director of Legislative Relations
Governor's Office

James L. Baldwin
Assistant Attorney General
Juneau

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

February 3, 1986

Honorable Mike M. Miller
Chair, House Judiciary Committee
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Re: HB 513 (constitutional
appropriation limit and
budget reserve fund)
Our file: 377-088-86

Dear Representative Miller:

House Bill 513 (constitutional appropriation limit and budget reserve fund), introduced at the governor's request on January 24, 1986, currently resides in your committee. You have scheduled a hearing for the bill on February 5, 1986. We are submitting the following proposed amendment for your consideration and inclusion in the bill:

Page 2, line 26:

Delete "and."

After "(C)" insert the following: "the permanent fund dividend fund, and (D)."

The amendment would slightly revise the definition of "state source" in proposed AS 37.05.156(g). That term is used in both HB 513 and in the companion constitutional-amendment resolution, HJR 62 (which also resides in your committee), in determining both the appropriation limit and the amount of "money received" by the state. It is the governor's intent that appropriations from, and the money in, the permanent fund dividend fund (AS 43.23.045) would be excluded when determining the appropriation limit and the amount of money received by the state.

In continuing to review the bill, it appears that the bill's current definition of "state source" does not make that intent clear. Since the permanent fund dividend fund is merely established in the "state treasury" and not in the constitutionally dedicated permanent fund itself (see the existing AS 43.23.045(a)), the bill should specifically refer to it in order to

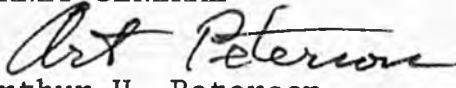
Honorable Mike M. Miller
Chair, House Judiciary Committee

February 3, 1986
Page 2

provide the desired exclusion. The amendment set out above should resolve any question as to the status of appropriations from, or money in, the permanent fund dividend fund.

Sincerely,

HAROLD M. BROWN
ATTORNEY GENERAL

By: 
Arthur H. Peterson
Assistant Attorney General

HMB:AHP:BJJ:md

cc: Milton B. Barker
Deputy Commissioner, Treasury
Dept. of Revenue

Jim Ayers
Director of Legislative Relations
Governor's Office

Gordon Harrison, Associate Director
Division of Strategic Planning
OMB

Jay Hogan, Associate Director
Division of Budget Review
OMB

James L. Baldwin
Assistant Attorney General
Government Affairs Section
Juneau

Office of Management and Budget
Division of Strategic Planning

February 3, 1986

HOUSE BILL (HB) 513

An act relating to the constitutional appropriation limitation and budget reserve fund; and providing for an effective date.

SECTIONAL ANALYSIS

Section 1

This section amends AS 37.05 (Fiscal Procedures Act) by adding a Section 156 (Budget Reserve Fund; Appropriation Limit).

Subsection (a) establishes the Budget Reserve Fund (BRF) as a separate fund within the State Treasury, and stipulates that the money in the BRF is dedicated by the provision of Article IX, Section 17 of the Alaska Constitution.

Section 17 is added to Article IX of the Constitution by the provisions of HJR 62, Section 3. That section of HJR 62 effectively stipulates that revenue receipts in excess of the new appropriation limit established in HJR 62 (which applies only to unrestricted general funds) must be deposited in the BRF.

Subsection (b) effectively stipulates that, for purposes of determining the new appropriation limit amount established in HJR 62, appropriations are considered to be made in the calendar year in which they are enacted.

The calendar-year basis is specified in this subsection because the appropriation limit established in HJR 62 is determined for each fiscal year according to the total amount of appropriations enacted during the calendar year which precedes that fiscal year. That approach is used in HJR 62 in order to assure that legislators know at the start of legislative sessions precisely how much money they can appropriate for the upcoming fiscal year's budget.

Lines 18-21 of Subsection (b) effectively stipulate that any money which comes to the General Fund from the BRF because deposits have caused the BRF balance to exceed the BRF's

annually established capacity (maximum size), shall, if appropriated, be included in the determination of the following year's appropriation limit.

Lines 21-25 of Subsection (b) effectively stipulate that the money to which the HJR 62 appropriation limit applies shall be considered to include any carry-forward or deficit from the preceding fiscal year.

Subsection (c) effectively stipulates that reappropriations shall not be considered as new appropriations in the year in which they are reappropriated, thus exempting reappropriations from the HJR 62 appropriation limit.

Lines 26-29 further stipulate that only the remaining balance in reappropriation accounts may be considered to be reappropriations. (For example, if the amount of \$1 million was appropriated for a fiscal year 1988 project, but only \$800 thousand remained in the account as of January 1990, only \$800 thousand of a \$1 million reappropriation made during the 1990 session would be considered as the reappropriation. The remaining \$200 thousand of the \$1 million reappropriation would be considered a new appropriation, and thus would be included under the appropriation ceiling governing that session.)

The last four lines of Subsection (c) establish a methodology for distinguishing reappropriations from new appropriations in appropriation bills. According to this methodology, a reappropriation item in an appropriation bill will be considered to be a reappropriation only if the bill includes, within a single section, an explicit coupling of a repeal citation and a reappropriation amount. All reappropriation items lacking such an explicit coupling will be considered to be new appropriations, and thus will count under the appropriation limit operative at the time.

Subsection d) effectively stipulates that the Governor shall determine whether the amount of unrestricted general fund revenue received during a fiscal year is less than 95 percent of the total unrestricted general fund appropriations enacted during the calendar year which preceded that fiscal year; and, that the Governor shall make that determination during the fourth quarter of the fiscal year. If the Governor determines that such a shortfall has occurred, the BRF shall transfer money to the General Fund for appropriations. The amount of money so transferred shall be the lesser of: (a) enough to raise appropriations to the 95 percent level; or, (b) an amount equal to 25 percent of the existing BRF balance.

Subsection (e) effectively stipulates that, if deposits to the BRF cause the BRF's annually established capacity (maximum size) to be exceeded, 75 percent of the excess amount must be deposited in the Permanent Fund.

Subsection (f) effectively stipulates that the Governor's authority to use BRF money to meet State emergencies, as authorized in HJR 62, shall apply to emergencies as defined in AS 26.23.230(1), and to emergencies involving a serious reduction in revenue from non-state (e.g., federal) sources.

Subsection (g) effectively represents an attempt to formally define "unrestricted general fund revenues", for purposes of defining the scope of applicability of the new appropriation limit established in HJR 62. Though its meaning is widely understood in budgetary parlance, the phrase "unrestricted general fund revenues" has not previously been defined.

Section 2

Because the existing appropriation limit will be reconsidered on the 1986 general election ballot, it is possible that an individual might vote to retain the existing limit, while simultaneously voting affirmatively on the BRF appropriation limit (pursuant to the provisions of HJR 62). To avoid this possibility, Section 2 of House Bill 513 instructs the Lieutenant Governor to include an explanation of the situation on the ballot. Under the provisions of Section 2, the Lieutenant Governor shall make it clear on the ballot that an affirmative vote on the BRF appropriation limit (HJR 62) will supercede an affirmative vote on the reconsideration of the 1982 appropriation limit.

Section 3

This section repeals the State's current "Rainy Day Fund" and transfers its balance to the BRF.

Section 4

This section effectively stipulates that Section 1 and Section 3 of HB 513 will take effect only when any voter approval of the BRF and its accompanying appropriation limit become effective.

Section 5

This section stipulates that the provisions of Section 2 of HB 513, requiring the Lieutenant Governor's ballot explanation, will become effective immediately if HB 513 is enacted.

OPENING STATEMENT TO
HOUSE JUDICIARY COMMITTEE
FEBRUARY 5, 1986

BY

GORDON S. HARRISON *

GOOD AFTERNOON, MISTER CHAIRMAN, AND MEMBERS OF THE COMMITTEE.

MY NAME IS GORDON HARRISON, AND I AM THE ASSOCIATE DIRECTOR FOR STRATEGIC PLANNING IN THE GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET. I WOULD LIKE TO THANK YOU FOR THE OPPORTUNITY TO DISCUSS WITH YOU TODAY HOUSE JOINT RESOLUTION 62 AND HOUSE BILL 513, WHICH ARE GOVERNOR SHEFFIELD'S PROPOSAL TO CREATE A BUDGET RESERVE FUND.

I WOULD LIKE TO MAKE A VERY BRIEF STATEMENT ABOUT THE BUDGET RESERVE FUND AND THE GOVERNOR'S REASONS FOR PROPOSING IT, AND THEN ASSIST IN ANY WAY THAT I CAN IN RESPONDING TO THE COMMITTEE'S QUESTIONS. HERE TO ASSIST ME IN THAT TASK IS JACK FARGNCLI, FROM MY OFFICE.

MISTER CHAIRMAN, MEMBERS OF THE COMMITTEE, HJR 62 AND HB 513 ARE COMPANION PIECES OF LEGISLATION WHICH ADDRESS ONE OF THE MOST IMPORTANT PROBLEMS FACING THE STATE. THAT PROBLEM IS FISCAL STABILITY. ITS COUNTERPART, GIVEN THE PERVASIVE ROLE

* ASSOCIATE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF STRATEGIC PLANNING.

OF STATE EXPENDITURES IN ALASKA, IS OF COURSE ECONOMIC STABILITY.

MISTER CHAIRMAN, IT IS HARD TO OVER DRAMATIZE THE PRECARIOUS FISCAL POSITION OF THE STATE OF ALASKA AT THE MOMENT. WE ARE ALL UNCOMFORTABLY AWARE OF THE RECENT STEEP SLIDE OF OIL PRICES. IN THE LAST 30 DAYS, THE SPOT MARKET PRICE FOR MARKER CRUDE OILS HAS FALLEN \$10, A 40 PERCENT DECREASE.

GOVERNOR SHEFFIELD HAS PROPOSED AN FY 87 BUDGET OF \$2.66 BILLION (UNRESTRICTED GENERAL FUNDS). WHAT IS THE OUTLOOK FOR FY 88? EVEN IF THE DEPARTMENT OF REVENUE DOES NOT REVISE DOWNWARD ITS REVENUE FORECAST IN MARCH, AND IF THE GOVERNOR'S PROPOSED FY 87 BUDGET IS NOT EXCEEDED, WE STILL FACE A REDUCTION IN SPENDING IN FY 88 OF APPROXIMATELY \$400 MILLION.

HOWEVER, AS THE MEMBERS OF THIS COMMITTEE KNOW, THE GOVERNOR'S FY 87 BUDGET DOES NOT INCLUDE OUR SO-CALLED "WINDFALL" REVENUE; MONEY WE HAVE ALREADY RECEIVED, OR WILL SOON RECEIVE, FROM NEGOTIATED SETTLEMENTS OF LITIGATION WITH OIL COMPANIES. IF THIS MONEY IS PUT TO USE IN THE BUDGET RESERVE FUND, AS THE GOVERNOR PROPOSES, IT WILL BE AVAILABLE TO HELP MITIGATE THE SPENDING CUTBACKS WE ANTICIPATE NEXT YEAR AND THEREAFTER.

GRANTED, THERE ARE MANY PRESSING AND UNMET NEEDS IN ALASKA TODAY, AND EVERY DOLLAR OF OUR WINDFALL REVENUE COULD BE SPENT ON WORTHY CAPITAL PROJECTS, PUBLIC SERVICES, AND REVENUE SHARING PROGRAMS. BUT THE LONG VIEW OF OUR FISCAL SITUATION COMPELS US TO DEFER THE USE OF THIS MONEY; TO

ANTICIPATE THE FUTURE WHEN OUR NEEDS ARE LIKELY TO BE EVEN MORE ACUTE.

THE BUDGET RESERVE FUND PROVIDES THE MECHANISM TO ACCOMPLISH THIS. ITS PURPOSE IS TO STABILIZE STATE SPENDING IN THE YEARS AHEAD BY REQUIRING US TO SAVE A PORTION OF WINDFALL REVENUES WHENEVER THESE MAY APPEAR. THE BUDGET RESERVE FUND PLAN IN HJR 52 AND HB 513 DOES THIS BY ESTABLISHING A FLOOR FOR ANNUAL APPROPRIATIONS, AND A CEILING. WHEN ANNUAL REVENUE RECEIPTS FALL BELOW THE FLOOR, THE BUDGET RESERVE FUND WILL LAY OUT MONEY TO SUPPORT EXTRA APPROPRIATIONS. WHEN RECEIPTS EXCEED THE CEILING, THE SURPLUS IS USED TO REPLENISH THE FUND. THIS "BUFFERING" EFFECT, OR DAMPENING OF THE ANNUAL FLUCTUATIONS IN STATE BUDGET LEVELS, IS PRECISELY WHAT IS NEEDED TO MINIMIZE OUR VULNERABILITY TO BUDGETARY AND ECONOMIC SHOCKS.

AS REGARDS THE OPERATIONS OF THE BUDGET RESERVE FUND, MISTER CHAIRMAN, LET ME SAY THAT WE HAVE GENERALLY STRUCTURED OUR PROPOSAL SO THAT THE OPERATIVE LIMIT AND THRESHOLDS OF THE FUND ARE CONTAINED IN THE BILL, WHILE THE FUND'S ESTABLISHMENT AND THE APPROPRIATION LIMIT ARE CONTAINED IN THE CONSTITUTIONAL AMENDMENT. THIS APPROACH OFFERS A NECESSARY BALANCE BETWEEN TWO IMPORTANT CONSIDERATIONS. ONE IS TO PRESERVE THE LEGISLATURE'S ABILITY TO MODIFY THE BUDGET RESERVE FUND'S EFFECTS ON APPROPRIATIONS, ESPECIALLY AS WE ADJUST TO CHANGING CIRCUMSTANCES IN THE FUTURE. THE SECOND IS TO BRING THE STRENGTH OF CONSTITUTIONAL PROTECTION TO THE FUND'S UNDERLYING PURPOSES AND PRINCIPLES.

IN CLOSING, LET ME SAY THAT IT CERTAINLY IS GOVERNOR SHEFFIELD'S OPINION, AS WELL AS OUR OWN AT OMB, THAT THE LONG-TERM BENEFITS OF BUDGETARY AND ECONOMIC STABILITY WHICH THE BUDGET RESERVE FUND OFFERS, REPRESENT ONE OF THE MOST IMPORTANT STEPS THAT WE CAN TAKE TO ASSURE STABILITY AND PROSPERITY FOR ALL ALASKANS IN THE COMING YEARS.

MISTER CHAIRMAN, MEMBERS OF THE COMMITTEE, I HAVE INTENTIONALLY KEPT THESE COMMENTS BRIEF AND GENERAL IN NATURE, IN THE INTEREST OF GETTING DIRECTLY TO THE COMMITTEE'S CONCERNS, AND IN THE INTEREST OF NOT STARTING OUT WITH DETAILS WITH WHICH THE COMMITTEE MAY ALREADY BE FAMILIAR. AT THIS POINT, I AM PREPARED TO EITHER DEPICT MORE FULLY WHAT THE LEGISLATIVE ITEMS BEFORE YOU PROPOSE TO DO, OR TO RESPOND AS BEST I CAN TO THE COMMITTEE'S QUESTIONS.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 24, 1986

CE 1/24
The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a joint resolution proposing amendments to the Alaska Constitution relating to a budget reserve fund and an appropriation limit, and a bill to implement the joint resolution.

I am placing the bill implementing the proposed constitutional amendments before the legislature during this session to ensure that legislators and voters facing that proposal in the 1986 general election understand the scope, details, and implications of the amendments.

The bill would take effect following voter approval of the constitutional amendments. At that time, AS 37.05.159, establishing what is commonly known as the "rainy day fund," would be repealed and replaced by a new statute establishing the budget reserve fund. The balance of the money in the rainy day fund would follow the constitutional and statutory change and would be transferred to the budget reserve fund at that time. The budget reserve fund is designed to meet revenue contingencies contemplated by the rainy day fund as well as broader revenue stability needs.

At the outset, it must be emphasized that the budget reserve fund is very different in purpose and function from forward funding and cash-based budgeting proposals. We have carefully evaluated all these options, and we believe that the budget reserve fund is the fiscal management tool that is best suited to the State's situation. This fund seeks to

dampen annual budget swings. Neither forward funding nor cash-based budgeting protect us from annual budget fluctuations caused by volatility in world oil markets.

The budget reserve fund works in the following manner. In years of rising revenues, as specified in the constitutional amendments, appropriations are limited to 115 percent of appropriations made during the preceding calendar year. Any surplus money above the 115 percent limit is used first to replenish the budget reserve fund; any remaining surplus is then divided between deposits to the permanent fund and to the general fund. In years of revenue decline, as specified in the constitutional amendments and proposed statute, money is made available from the budget reserve fund in an amount that brings appropriations up to 95 percent of the appropriations in the preceding calendar year, or an amount that equals no more than 25 percent of the fund's balance, whichever is less.

These two operations of the budget reserve fund will provide a smoother expenditure pattern over the years than would result from the fluctuations of petroleum revenue alone. This is because, in high revenue years, revenue increases will flow into the budget reserve fund for subsequent appropriation during years of revenue decline, buffering fluctuations in the state's revenue stream caused by petroleum price variations. The upper limit to appropriations (the 115 percent level) will provide an effective appropriation limit, in contrast with the ineffective limit now in our constitution. We will therefore have a meaningful constitutional spending limit as desired by the people of Alaska.

Both the joint resolution and the bill specify that the appropriation limit applies only to unrestricted general fund money and to expenditures from the undistributed income account of the permanent fund (except for a deposit of that money to the permanent fund made in 1986). In turn, "money received" by the state includes only money in the undistributed income account and unrestricted general fund money. Excluded from both, for example, are federal receipts. The joint resolution and bill also specify that appropriations for a fiscal year are limited to 115 percent of appropriations made during the preceding calendar year. The calendar-year basis is used to ensure certainty in the determination of allowable appropriation levels for the coming fiscal year. It also avoids problems caused by supplemental appropriations late in a fiscal year.

New AS 37.05.156(c), in sec. 1 of the bill, addresses the question of how reappropriations should be treated for purposes of the appropriation limit. The intent of that provision is to distinguish between "old" and "new" money. This distinction is needed because it is sometimes difficult to determine whether a reappropriation consists entirely of money appropriated in a prior year, or exceeds the amount of money actually available from those prior appropriations, thereby entailing an appropriation of new money. Any reappropriation not clearly identifiable is also considered a new appropriation.

The maximum balance of the budget reserve fund in any fiscal year equals the amount of general fund appropriations enacted during the preceding calendar year. Money in excess of the 115 percent limit is used to bring the fund balance up to the fund's capacity. A portion of the money in excess of the budget reserve fund capacity must then be deposited in the permanent fund as savings. The bill specifies that that portion is 75 percent. The remaining excess (25 percent) must be deposited in the general fund, and is available for appropriation (effectively increasing the 115 percent limit). Any of that excess money subsequently appropriated from the general fund becomes part of the calculation of the base for the next fiscal year.

The bill specifies that if general fund revenue in a fiscal year falls to a level below 95 percent of appropriations made during the preceding calendar year, an amount may be transferred from the budget reserve fund into the general fund. That transferrable amount is limited to the lesser of (1) the amount needed to bring appropriations up to the 95 percent level, or (2) the maximum amount of the fund that may be spent in a fiscal year, which is 25 percent of the budget reserve fund balance.

As specified in the joint resolution, the budget reserve fund retains its income earnings to help ensure an adequate level of capitalization to meet appropriation demand in years of revenue decline.

The constitutional amendments permit expenditures from the fund beyond the 115 percent appropriation limit and the 25 percent fund expenditure limit to meet declared states of emergency. The bill cites existing statutory language to provide further clarification of "emergencies."

The constitutional amendments proposed in the joint resolution and the implementing statutory provisions together can

provide elected officials with the tools of sound fiscal management, and promise to the citizens of the state a means of avoiding the social and economic shocks that may result from extreme volatility in our revenue stream.

Article XV, sec. 27, of the Alaska Constitution now requires the lieutenant governor to place on the ballot in 1986 the proposition for the existing appropriation limitation, which was approved by the voters in 1982. Since that vote will occur at the same election as the vote on the attached proposal, there is the possibility that both constitutional provisions would be approved -- resulting in a direct conflict between them. To avoid confusion and to preclude legal questions arising as to this later amendment, while still having the lieutenant governor comply with art. XV, sec. 27, the attached bill (see sec. 2) requires the lieutenant governor to include an appropriate explanation on the ballot. It is expected that this explanation will be brief, with some amplification in the voter pamphlet.

Sincerely,



Bill Sheffield
Governor